



Attorney Docket Number 05261.058/6069.2 P

Serial Number 10/643,806

Confirmation Number 4773

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bill J. Pope, et al.

Examiner: Unassigned

Serial Number: 10/643,806

Group Art Unit: 3682

Filed: August 18, 2003

For: BEARINGS, RACES AND COMPONENTS THEREOF HAVING DIAMOND AND
OTHER SUPERHARD SURFACES

SECOND PETITION FOR FILING DATE

Mail Stop: OFFICE OF PETITIONS
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Honorable Commissioner:

On June 23, 2004, correspondence entitled ON PETITION and mailed June 17, 2004, was received in our office. A copy of the Notice is enclosed with this Petition. This Notice indicates that a copy of the postcard receipt could not be located. Applicant has enclosed a copy of the postcard receipt as well as an enlarged copy of the postcard receipt for easier reading. Also enclosed are copies of the thirty (30) pages of drawings, indicating that the Figures 2R-1, 2R-2,

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop: OFFICE OF PETITIONS, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450, on this 28th day of June, 2004.

Signed: _____

Dated: _____

600584.1

2S-1, 2S-2, 2T-1, 2T-2, 3AB, 4A-d, 5A-G, 6A-1, 6A-2, 6B-1, 6B-2, 7AB, 8AB and 9-13 were filed with the original filing of the Specification.

Applicant requests that this Petition for Filing Date be granted and that the above-referenced provisional patent application be accorded a filing date of August 18, 2003, the date the original application was submitted via Express Mail to the U. S. Patent and Trademark Office.

The correspondence from the Office of Petitions indicates that no additional petition fee is required for this request. However, if additional fees are required, please charge any additional fees that may be due to Deposit Account No. 50-0581 of the undersigned.

DATED this 28th day of June, 2004.

Respectfully,

PARSONS BEHLE & LATIMER



Daniel P. McCarthy
Attorney for Applicant
Registration No. 36,600
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Telephone: (801) 532-1234
Facsimile: (801) 536-6111

June 28, 2004
Salt Lake City, Utah



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov



RECEIVED

JUN 23 2004

Parsons Behle & Latimer

DANIEL P. MCCARTHY, ESQ.
PARSONS BEHLE & LATIMER
SUITE 1800
201 SOUTH MAIN STREET
SALT LAKE CITY, UT 84111

COPY MAILED

JUN 17 2004

OFFICE OF PETITIONS

In re Application of
Pope, et al.
Application No. 10/643,806
Filed: August 18, 2003
Attorney Docket No.
05261.058/6069.2P

ON PETITION

This is a decision on papers styled "Petition for Filing Date" filed on March 22, 2004, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 18, 2003, including Figures 2R-1, 2R-2, 2S-1, 2S-2, 2T-1, 2T-2, 3AB, 4A-D, 5A-G, 6A-1, 6A-2, 6B-1, 6B-2, 7AB, 8AB and 9-13, as described in the specification.

The application was filed on April 18, 2003. However, on February 3, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" (Notice) that stated the application had been accorded a filing date, but Figures 2R-1, 2R-2, 2S-1, 2S-2, 2T-1, 2T-2, 3AB, 4A-D, 5A-G, 6A-1, 6A-2, 6B-1, 6B-2, 7AB, 8AB and 9-13, as described in the specification appear to have been omitted.

In response, on March 22, 2004, the instant petition and thirty (30) sheets of drawings that contain Figures 2R-1, 2R-2, 2S-1, 2S-2, 2T-1, 2T-2, 3AB, 4A-D, 5A-G, 6A-1, 6A-2, 6B-1, 6B-2, 7AB, 8AB and 9-13, as described in the specification, were submitted. The petition states, "Enclosed for your review is a copy of the postcard receipt by the U.S. Patent and Trademark Office with a filing date and serial number indicating Thirty (30) Sheets of Drawings were received with the Specification. ... Each of these documents was originally submitted on August 18, 2003 with the patent application." However, the aforementioned copy of the postcard receipt cannot be located in the application file after a thorough review.

As such, petitioner's argument is not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals that eight (8) pages of drawings were filed on August 18, 2003. The pages containing Figures 2R-1, 2R-2, 2S-1, 2S-2, 2T-1, 2T-2, 3AB, 4A-D, 5A-G, 6A-1, 6A-2, 6B-1, 6B-2, 7AB, 8AB and 9-13, were not filed on August 18, 2003, since no such pages are present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner has not submitted any evidence to support petitioner's allegation.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

A copy of a postcard receipt that would indicate receipt of the omitted figures has not been submitted. If petitioner has a postcard receipt date stamped by the Office that indicates receipt of Figures 2R-1, 2R-2, 2S-1, 2S-2, 2T-1, 2T-2, 3AB, 4A-D, 5A-G, 6A-1, 6A-2, 6B-1, 6B-2, 7AB, 8AB and 9-13 (or additional pages of drawings), on August 18, 2003, then the postcard receipt or a copy thereof should be supplied.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If petitioner has a postcard receipt acknowledging receipt of Figures 2R-1, 2R-2, 2S-1, 2S-2, 2T-1, 2T-2, 3AB, 4A-D, 5A-G, 6A-1, 6A-2, 6B-1, 6B-2, 7AB, 8AB and 9-13 (or additional pages of drawings), on August 18, 2003, the postcard receipt or a copy thereof should be supplied, accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: Customer Service Window
 2011 South Clark Place
 Crystal Plaza Two (left side entrance of building)
 Arlington, VA

The application will maintain the August 18, 2003 filing date, and the application papers (i.e. the original disclosure of the invention) will include only those application papers present in the USPTO on the filing date.

The application will be forwarded to The Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

A handwritten signature in dark ink, appearing to read 'EJ Tannouse', with a long horizontal flourish extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



PLEASE STAMP TO ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

In re U. S. Continuation Patent Application of: Bill J. Pope, et al.

Serial Number: Unassigned

Examiner: Unassigned

Filing Date: August 18, 2003

Group Art Unit: Unassigned

Title: "BEARINGS, RACES AND COMPONENTS THEREOF HAVING
DIAMOND AND OTHER SUPERHARD SURFACES"

Papers filed:

U. S. Continuation Patent Application consisting of:

1. Utility Patent Application Transmittal signed and dated August 18, 2003;
2. Specification - One Hundred Thirteen (113) Pages;
3. Thirty (30) Sheets of Drawings;
4. Declaration for Patent Application signed by inventors;
5. Check Number 170431 in the amount of \$792.00;

22241 U.S. PTO

10/643806



08/18/03

All sent via Express Mail Label EV 321 687 676 US on August 18, 2003

Docket Number: 6069.2 P

Dated: 08-18-03

RRC:ipn841

Attorney: Daniel P. McCarthy



PLEASE STAMP TO ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

In re U. S. Continuation Patent Application of: Bill J. Pope, et al.

Serial Number: Unassigned

Examiner: Unassigned

Filing Date: August 18, 2003

Group Art Unit: Unassigned

Title: "BEARINGS, RACES AND COMPONENTS THEREOF HAVING
DIAMOND AND OTHER SUPERHARD SURFACES"

Papers filed:

U. S. Continuation Patent Application consisting of:

1. Utility Patent Application Transmittal signed and dated August 18, 2003;
2. Specification - One Hundred Thirteen (113) Pages;
3. Thirty (30) Sheets of Drawings;
4. Declaration for Patent Application signed by inventors;
5. Check Number 170431 in the amount of \$792.00;

22241 U.S. PTO
10/643806



All sent via Express Mail Label EV 321 687 676 US on August 18, 2003

Docket Number: 6069.2 P

Dated: 08-18-03

RRC:ipn841✓

Attorney: Daniel P. McCarthy